

LEGISLATIVE BILL 415

Passed over the Governor's veto April 26, 2007.

Introduced by Harms, 48

FOR AN ACT relating to motor vehicles; to amend section 60-463, Reissue Revised Statutes of Nebraska, and sections 60-462, 60-4,120.01, 60-4,123, and 60-4,124, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to operator's licenses, provisional operator's permits, school permits, and learner's permits; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-462, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-462 Sections 60-462 to 60-4,188 and section 3 of this act shall be known and may be cited as the Motor Vehicle Operator's License Act.

Sec. 2. Section 60-463, Reissue Revised Statutes of Nebraska, is amended to read:

60-463 For purposes of the Motor Vehicle Operator's License Act, the definitions found in sections 60-463.01 to 60-478 and section 3 of this act shall be used.

Sec. 3. Interactive wireless communication device means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages, or a laptop computer.

Sec. 4. Section 60-4,120.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-4,120.01 ~~(1)~~ (1)(a) Any person who is at least sixteen years of age but less than eighteen years of age may be issued a provisional operator's permit by the Department of Motor Vehicles. The provisional operator's permit shall expire on the applicant's eighteenth birthday.

(b) No provisional operator's permit shall be issued to any person unless such person:

(i) Has possessed a valid Nebraska LPD-learner's permit for at least a six-month period beginning on the date of issuance of such person's LPD-learner's permit; and

(ii) Has not accumulated three or more points pursuant to section 60-4,182 during the six-month period immediately preceding the date of the application for the provisional operator's permit.

(c) The requirements for the provisional operator's permit prescribed in subdivisions (2)(a) and (b) of this section may be completed prior to the applicant's sixteenth birthday. A person may apply for a provisional operator's permit and take the driving test and the written examination, if required, at any time within sixty days prior to his or her sixteenth birthday upon proof of age in the manner provided in section 60-484.

(2) In order to obtain a provisional operator's permit, the applicant shall present to the examiner (a)(i) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (A) the effects of the consumption of alcohol on a person operating a motor vehicle, (B) occupant protection systems, (C) risk assessment, and (D) railroad crossing safety and (ii) proof of successful completion of a written examination and driving test administered by a driver safety course instructor or (b) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation including at least ten hours of motor vehicle operation between sunset and sunrise, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. If the applicant presents such a certificate, the applicant shall be required to successfully complete a driving test administered by an examiner of the department. The written examination shall be waived if the applicant surrenders a Nebraska LPD-learner's permit or has been issued a Nebraska LPE-learner's permit after January 1, 2006, and such permit is valid or has expired no more than one year prior to surrender. However, the department shall not waive the written examination if the provisional operator's permit being applied for contains

a class or endorsement which is different from the class or endorsement of the LPD-learner's or LPE-learner's permit. Upon presentation to the examiner by the applicant of a form prescribed by the department showing successful completion of the driver safety course, the examiner shall waive the written examination and driving test. Upon presentation to the examiner of the certificate, the examiner shall waive the written examination but not the driving test. The examiner shall waive the written examination and the driving test if the applicant has been issued a school permit and such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the provisional operator's permit being applied for contains a class or endorsement which is different from the class or endorsement of the school permit.

~~(3)~~ (3)(a) The holder of a provisional operator's permit shall only operate a motor vehicle on the highways of this state during the period beginning at 6 a.m. and ending at 12 midnight except when he or she is en route to or from his or her residence to his or her place of employment or a school activity. The holder of a provisional operator's permit may operate a motor vehicle on the highways of this state at any hour of the day or night if accompanied by a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state.

(b) The holder of a provisional operator's permit shall only operate a motor vehicle on the highways of this state during the first six months of holding the permit with no more than one passenger who is not an immediate family member and who is under nineteen years of age.

(c) The holder of a provisional operator's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state.

(d) Enforcement of subdivisions (a), (b), and (c) of this subsection shall be accomplished only as a secondary action when the holder of the provisional operator's permit has been cited or charged with a violation of some other law.

(4) The county treasurer shall collect the fee prescribed in section 60-4,115 for the issuance of each provisional operator's permit.

Sec. 5. Section 60-4,123, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-4,123 (1) Any person who is at least fifteen years of age may apply for an LPD-learner's permit from the Department of Motor Vehicles. In order to obtain an LPD-learner's permit, the applicant shall successfully complete a written examination. A person may take the written examination beginning sixty days prior to his or her fifteenth birthday but shall not be issued a permit until he or she is fifteen years of age. The written examination shall be waived for any person who has been issued an LPE-learner's permit after January 1, 2006.

(2) Upon successful completion of the written examination and the payment of a fee, the applicant shall be issued an LPD-learner's permit from the county treasurer. The permit shall be valid for twelve months.

~~(3)~~ (3)(a) The holder of an LPD-learner's permit shall only operate a motor vehicle on the highways of this state if he or she is accompanied at all times by a licensed operator who is at least twenty-one years of age and who has been licensed by this state or another state and if he or she is actually occupying the seat beside the licensed operator or, in the case of a motorcycle or moped, if he or she is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(b) The holder of an LPD-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPD-learner's permit has been cited or charged with a violation of some other law.

(4) The county treasurer shall collect the fee prescribed in section 60-4,115 for the issuance of each LPD-learner's permit.

Sec. 6. Section 60-4,124, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-4,124 (1) A person who is younger than sixteen years and three months of age but is older than fourteen years and two months of age may be issued, by the county treasurer, a school permit if such person lives a distance of one and one-half miles or more from the school he or she attends and either resides outside a city of the metropolitan, primary, or first class or attends a school which is outside a city of the metropolitan, primary, or first class and if such person has held an LPE-learner's permit for two months. A school permit shall not be issued until such person has

appeared before an examiner to demonstrate that he or she is capable of successfully operating a motor vehicle, moped, or motorcycle and has in his or her possession an examiner's certificate authorizing the county treasurer to issue a school permit. In order to obtain an examiner's certificate, the applicant shall present to the examiner (a) proof of successful completion of a department-approved driver safety course which includes behind-the-wheel driving specifically emphasizing (i) the effects of the consumption of alcohol on a person operating a motor vehicle, (ii) occupant protection systems, (iii) risk assessment, and (iv) railroad crossing safety and (b) (i) proof of successful completion of a written examination and driving test administered by a driver safety course instructor or (ii) a certificate in a form prescribed by the department, signed by a parent, guardian, or licensed driver at least twenty-one years of age, verifying that the applicant has completed fifty hours of lawful motor vehicle operation, under conditions that reflect department-approved driver safety course curriculum, with a parent, guardian, or adult at least twenty-one years of age, who has a then current Nebraska operator's license or who is licensed in another state. The Department of Motor Vehicles shall waive the written examination if the applicant surrenders an LPE-learner's permit issued after January 1, 2006, and if such permit is valid or has expired no more than one year prior to application. The written examination shall not be waived if the permit being applied for contains a class or endorsement which is different from the class or endorsement of the LPE-learner's permit.

(2) A person holding a school permit may operate a motor vehicle, moped, or motorcycle:

(a) To and from where he or she attends school and between schools of enrollment over the most direct and accessible route by the nearest highway from his or her place of residence to transport such person or any family member who resides with such person to attend duly scheduled courses of instruction and extracurricular or school-related activities at the school he or she attends; or

(b) Under the personal supervision of a licensed operator. Such licensed operator shall be at least twenty-one years of age and licensed by this state or another state and shall actually occupy the seat beside the permitholder or, in the case of a motorcycle or moped, if the permitholder is within visual contact of and under the supervision of, in the case of a motorcycle, a licensed motorcycle operator or, in the case of a moped, a licensed motor vehicle operator.

(3) The holder of a school permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subsection shall be accomplished only as a secondary action when the holder of the school permit has been cited or charged with a violation of some other law.

~~(3)~~ (4) A person who is younger than sixteen years of age but is over fourteen years of age may be issued an LPE-learner's permit from the county treasurer, which permit shall be valid for a period of three months. An LPE-learner's permit shall not be issued until such person successfully completes a written examination prescribed by the department and demonstrates that he or she has sufficient powers of eyesight to safely operate a motor vehicle, moped, or motorcycle.

~~(4)~~ (5)(a) While holding the LPE-learner's permit, the person may operate a motor vehicle on the highways of this state if he or she has seated next to him or her a person who is a licensed operator or, in the case of a motorcycle or moped, if he or she is within visual contact of and is under the supervision of a person who, in the case of a motorcycle, is a licensed motorcycle operator or, in the case of a moped, is a licensed motor vehicle operator. Such licensed motor vehicle or motorcycle operator shall be at least twenty-one years of age and licensed by this state or another state.

(b) The holder of an LPE-learner's permit shall not use any type of interactive wireless communication device while operating a motor vehicle on the highways of this state. Enforcement of this subdivision shall be accomplished only as a secondary action when the holder of the LPE-learner's permit has been cited or charged with a violation of some other law.

~~(5)~~ (6) The county treasurer shall collect the fee prescribed in section 60-4,115 from each successful applicant for a school or LPE-learner's permit. All school permits shall be subject to impoundment or revocation under the terms of section 60-496. Any person who violates the terms of a school permit shall be guilty of an infraction and shall not be eligible for another operator's license or school, farm, LPD-learner's, or LPE-learner's permit until he or she has attained the age of sixteen years.

Sec. 7. This act becomes operative on January 1, 2008.

Sec. 8. Original section 60-463, Reissue Revised Statutes of

Nebraska, and sections 60-462, 60-4,120.01, 60-4,123, and 60-4,124, Revised Statutes Cumulative Supplement, 2006, are repealed.